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**Review of implementation of the United Nations  
Convention against Corruption**

**Executive summary**

**Note by the Secretariat**

**Addendum**

**Contents**

	<i>Page</i>
I. Executive summary . . . . .	2
Côte d'Ivoire . . . . .	2

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## II. Executive summary

### Côte d'Ivoire

#### 1. Introduction: overview of the legal and institutional framework of Côte d'Ivoire in the context of implementation of the United Nations Convention against Corruption

Côte d'Ivoire signed the United Nations Convention against Corruption (the Convention) on 10 December 2003, ratifying and publishing it on 6 December 2011. Côte d'Ivoire deposited its instrument of ratification with the Secretary-General on 25 October 2012.

Côte d'Ivoire has a legal system of the civil-law tradition. The principal sources of law are the Constitution, acts passed by its parliament and international law, and regulations issued by the administrative authorities. The Convention occupies an important position among regulatory texts, just below the Constitution and above ordinary laws. The monistic legal system of Côte d'Ivoire means that international law and the international conventions ratified by Côte d'Ivoire constitute an integral part of domestic law and take precedence over any contrary provision of domestic law.

The main national agencies involved in the fight against corruption are:

- The High Authority for Good Governance
- The National Financial Information Processing Unit of Côte d'Ivoire (CENTIF)
- The General State Inspectorate
- The National Capacity-Building Secretariat
- The Ethics and Good Conduct Observatory
- The Anti-Corruption Brigade
- The Public Procurement Regulatory Authority
- The Anti-Racketeering Unit.

Côte d'Ivoire has a number of laws and decrees relating to the fight against corruption, including:

- Act No. 81-640 of 31 July 1981 establishing the Criminal Code
- Act No. 60-366 of 14 November 1960 establishing the Code of Criminal Procedure
- Act No. 2013-875 of 23 December 2013 ratifying Order No. 2013-660 of 20 September 2013 on preventing and combating corruption and similar offences (Order No. 660), which broadly reflects the provisions of the Convention that establish corruption offences
- Act No. 2013-661 of 20 September 2013 establishing the powers, composition, organization and functions of the High Authority for Good Governance
- Act No. 2005-554 of 2 December 2005 on combating money-laundering ("the 2005 Act")
- Act of 10 March 1927 on the extradition of foreign nationals (the Extradition Act)
- Organic Act No. 2014-337 of 5 June 2014 establishing a code of transparency in the management of public finances.

## 2. Chapter III: Criminalization and law enforcement

### 2.1. Observations on the implementation of the articles under review

#### *Bribery and trading in influence (arts. 15, 16, 18 and 21)*

The active and passive bribery of public officials (Order No. 660, art. 29) through the direct or indirect offering or promise to a public official of payment, gifts or benefits, or the acceptance or solicitation by a public official of a bribe, constitute an offence in Côte d'Ivoire. These offences are punishable by a term of imprisonment of five to ten years and a fine of 5 million to 10 million CFA francs. The term of imprisonment is 10 years and the amount of the fine is tripled when the offence is committed by a member of the judiciary (Order No. 660, art. 29).

Article 1 of Order No. 660 provides broad scope for application of the definition of "public official" to any person acting on behalf of the State and/or with State resources, or defined as a public official or treated as such in accordance with the applicable regulations.

Active and passive bribery of foreign public officials and officials of international organizations are offences under article 41, paragraph 1, and article 42, paragraph 1, of Order No. 660. The offence may be linked to an economic or commercial transaction or the duties of the public official.

Active and passive trading in influence are offences under article 31 of Order No. 660. However, the scope of application of that provision is limited to the securing of favourable decisions or the performance of certain acts.

Côte d'Ivoire has partially criminalized bribery in the private sector, under article 45 of Order No. 660. The scope of the Order does not explicitly cover managers, directors or business owners, nor does the article cover benefits for a third person. Moreover, the penalties provided for in articles 44 to 48 of Order No. 660 show significant disparity based on the nature of the offender's employment, fines ranging from 10,000 to 10 million CFA francs and terms of imprisonment from 1 to 10 years.

#### *Money-laundering, concealment (arts. 23 and 24)*

Money-laundering is established as a criminal offence through articles 2, 3, 37, 38, 40-42 and 46 of the 2005 Act and articles 4, 21 and 22 of Order No. 660. Côte d'Ivoire considers all offences predicate offences, including serious crimes (*crimes*) and offences committed abroad (2005 Act, arts. 1 and 2). "Self-laundering" is also an offence (2005 Act, art. 2, para. 2).

Ivorian law establishes penalties for money-laundering under article 42 of the 2005 Act, which provides for a fine equivalent to four times the amount laundered where the perpetrator is a natural person and a fine of up to five times that amount where the offence is committed by a legal person.

Côte d'Ivoire has submitted its anti-money-laundering legislation to the Secretary-General of the United Nations through the Mechanism for the Review of Implementation of the Convention. Côte d'Ivoire has been a member of the Egmont Group of Finance Intelligence Units since July 2010.

Concealment is an offence under article 60 of Order No. 660 and article 414, paragraph 1, of the Criminal Code.

#### *Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)*

The embezzlement of property by public officials is an offence and is punishable by 5 to 10 years of imprisonment and a fine of 5 million to 10 million CFA francs (Order

No. 660, arts. 33-35). Both public and private property, and both tangible and intangible property, are covered. However, under article 33 of the Order, embezzlement constitutes an offence only if it is committed “knowingly and unjustifiably”, in accordance with the general principles of production of evidence, particularly with regard to the existence of intent as an element of the offence.

The provisions of the Convention relating to the abuse of functions by public officials are covered in article 32.

Illicit enrichment committed by a public official is an offence when a significant increase in a public official’s assets cannot be explained in relation to his or her lawful income (Order No. 660, art. 56). Côte d’Ivoire provides for reversal of the burden of proof with regard to demonstration of the illicit origin of assets. The declaration of assets by public officials has therefore been required since the enactment of the Order in 2013 (arts. 7-10). Persons subject to that requirement include the President, elected representatives and any person acting on behalf of the State, as well as officials of the High Authority for Good Governance.

Embezzlement of property in the private sector is partially covered by article 44 of Order No. 660 and article 891 of the Revised Uniform Act Relating to Commercial Companies and Economic Interest Groups of the Organization for the Harmonization of Business Law in Africa (OHADA), which refer explicitly to, inter alia, managers of enterprises, financial institutions and cooperatives, and to representatives of associations, private companies and foundations. Although the following articles cover salaried persons, they make no reference to non-salaried persons. The offences do not apply to all the persons referred to in the Convention, in particular those working for a private-sector entity in any capacity. Moreover, the provisions do not refer to the entrusting of a thing of value to a person by virtue of that person’s position.

#### *Obstruction of justice (art. 25)*

Article 39, paragraph 1, of Order No. 660 and article 302 of the Criminal Code establish as offences the use of physical force, threats or intimidation or the promise or offering of payment or gifts in order to obstruct justice, but only in relation to public officials. The giving of false testimony or interference with the exercise of official duties by a law enforcement official is also covered by article 39, paragraph 2, of Order No. 660. Extortion is an offence under article 36 of Order No. 660.

Articles 16 and 17 of Order No. 661 of 2013 and article 39, paragraph 2, of Order No. 660 establish as an offence the use or threat of use of violence against a justice or law enforcement official or a member of the High Authority for Good Governance to interfere with the exercise of their duties.

#### *Liability of legal persons (art. 26)*

Article 99 of the Criminal Code and article 77 of Order No. 660 establish the criminal liability of legal persons. The penalties provided for can be up to five times the amount of the fine that may be imposed where a natural person commits the offence (Order No. 660, art. 78). Civil liability is also established in relation to compensation for damage under article 86 of Order No. 660, which gives legal persons the right to file for damages through a civil suit.

Administrative penalties are provided for in articles 27 and 28 of the Annex to the Convention establishing the West African Economic and Monetary Union (WAEMU).

*Participation and attempt (art. 27)*

Article 75 of Order No. 660 makes attempt to commit any corruption offence punishable, and article 76, with reference to article 24 of the Criminal Code, establishes that participation is considered equivalent to the offence itself. The penalties applicable to the accomplice and the principal are identical (art. 29 of the Criminal Code).

Preparation for an offence is not punishable, but proof of preparation may be considered a prerequisite for the application of security measures provided for by the Criminal Code (art. 23 of the Criminal Code).

*Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)*

During the country visit, the discussions held yielded limited information concerning the implementation of article 30 of the Convention. Since no additional information was submitted subsequently, the implementation by Côte d'Ivoire of article 30 cannot be assessed fully.

All offences covered by Order No. 660 are considered to be ordinary offences (*délits*) (art. 96).

The President enjoys complete functional immunity except in the case of high treason (article 109 of the Constitution). All members of Parliament enjoy functional immunity except in cases of *flagrante delicto* (articles 67 and 68 of the Constitution). Immunity can only be lifted only by parliamentary vote, of two thirds in the case of the President and an absolute majority in the case of members of Parliament (arts. 110 and 111 of the Constitution). The case is then passed to the High Court of Justice, which is composed of members of Parliament elected by their peers. No information has been provided as to whether immunity has ever been lifted or whether the High Court of Justice has ever received, tried or adjudicated such cases. Articles 645 to 657 of the Code of Criminal Procedure describe the process relating to investigations concerning members of the judiciary, who, if there is sufficient evidence for prosecution, are tried by the special chamber of the Supreme Court. These articles also apply to the members of the High Authority for Good Governance.

Discretionary powers are exercised by the investigating judges as to whether or not a case will be prosecuted and whether aggravating or extenuating circumstances apply. Although article 27 of Order No. 660 stipulates that judges and prosecutors with specialized knowledge of issues relating to the Convention should be appointed in all courts, a lack of awareness of the recent adoption of the Order was identified. Judges and prosecutors believed that they would benefit from the development of guidelines for applying those measures in relation to Order No. 660 to ensure uniform and consistent implementation.

Article 63 of Order No. 660 establishes a series of penalties applicable to natural persons who have been convicted of offences covered by the Convention, including disqualification from holding public office for a period of six months to three years. Read in conjunction with the definition of "public official", this would also disqualify the person from holding office in an enterprise owned in whole or in part by the State (Order No. 660, art. 1). Article 7 of the Constitution guarantees the equality of individuals before the law.

Release on bail is provided for in article 138 of the Code of Criminal Procedure. Côte d'Ivoire has reported having taken legislative measures to promote the reintegration of persons convicted of offences, but the information provided is insufficient to verify this.

Offenders who provide cooperation may benefit from mitigation of their punishment, as provided for by article 83 of Order No. 660 and article 114 of the Criminal Code, while article 43 of the 2005 Act provides for the exemption of persons who provide cooperation from punishment. There are no mechanisms in place for the protection of offenders who provide cooperation.

*Protection of witnesses and reporting persons (arts. 32 and 33)*

Although article 67 of Order No. 660 provides for special protection measures for reporting persons, witnesses, experts, victims and their families, Côte d'Ivoire is still in the process of developing a formal programme for the protection of witnesses and reporting persons, and the law establishing that programme is as yet in draft form. According to article 302 of the Criminal Code, experts, witnesses, victims and reporting persons would be subject to the same protection measures.

There are currently measures in place to ensure that the identity of reporting persons is not revealed (article 29 of the 2005 Act), and the address of the police or the High Authority for Good Governance may be given as the address of the reporting person or witness (Order No. 660, art. 69). In the case of imminent danger to the security or safety of the persons concerned, the court, on its own initiative or at the request of the prosecutor, may also authorize the appearance of those persons without their names being disclosed (Order No. 660, art. 70).

Article 72 of Order No. 660 states that no sentence may be imposed solely on the basis of statements given anonymously. Therefore, article 71 sets out several situations in which a protected identity may be disclosed, including where such disclosure is necessary in order to protect the rights of the defendant. In such cases, the protected person is informed of the decision to disclose his or her identity and is granted ten days to challenge and appeal against the decision in a court of appeal. The court of appeal may refuse the disclosure of the protected person's identity and instead obtain that person's consent to disclose only certain documents.

Although Côte d'Ivoire does not currently have any agreements with foreign States for relocating witnesses, it is in a position to conclude such agreements if necessary.

*Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)*

The confiscation and seizure of proceeds derived from an offence or property of equivalent value, and of property, equipment or instrumentalities intermingled with or converted into other property, are provided for in article 65 of Order No. 660 and in article 45 of the 2005 Act. Confiscation without a criminal conviction and seizure are both possible (Order No. 660, arts. 65 and 36). Article 56 of Order No. 660 provides for reversal of the burden of proof. The rights of bona fide third parties are guaranteed under article 85 of Order No. 660, article 45 of the 2005 Act and article 1165 of the Civil Code.

Articles 75 and 92 to 100 of the Code of Criminal Procedure establish a mechanism for the identification, tracing, freezing and/or seizure of assets. In the event that an accused person or a suspect dies before the end of the investigation or trial, the court may continue civil proceedings in order to ensure the return of assets to bona fide third parties (Order No. 660, art. 87).

Frozen and confiscated assets are managed by the Illicit Asset Recovery and Management Unit, established by Decree No. 2014-220 of 16 April 2014.

The rules of bank secrecy may not be invoked to prevent the investigation or prosecution of money-laundering or corruption cases, as stated in article 89, paragraph 2, of Order No. 660.

*Statute of limitations; criminal record (arts. 29 and 41)*

Although the statute of limitations period for corruption offences is 10 years, as established by article 79 of Order No. 660, that period is suspended if the alleged offender has evaded the administration of justice (Order No. 660, article 80). Following recent legislative changes, the limitations period runs from the time of discovery of the offence (Order No. 660, article 79).

The legislation of Côte d'Ivoire does not require a previous conviction in another State to be taken into account. However, article 61 of the 2005 Act permits the requesting and use of that information when it relates to other WAEMU member States.

*Jurisdiction (art. 42)*

Article 15 of the Criminal Code establishes jurisdiction over all offences committed within the borders of Côte d'Ivoire, including its airspace, and on board vessels and aircraft registered in Côte d'Ivoire.

Offences classified as serious crimes by Ivorian legislation and committed abroad by an Ivorian citizen may be prosecuted and tried in Côte d'Ivoire. However, offences classified as ordinary offences under Ivorian law may be prosecuted only if the act in question is also punishable under the law of the State in which it was committed. Côte d'Ivoire has established the personal jurisdiction of its courts, except when the offence is committed against one of its nationals abroad (article 15 of the Criminal Code) or when it is committed by a stateless person who has his or her habitual residence in its territory. Côte d'Ivoire reported that it was currently in the process of revising its Criminal Code in order to establish its jurisdiction when an offence is committed against one of its nationals.

*Consequences of acts of corruption; compensation for damage (arts. 34 and 35)*

Côte d'Ivoire has adopted measures to cancel contracts, transactions, licences, concessions or authorizations resulting from the commission of a corruption offence. Such instruments can be declared null and void by a court (Order No. 660, art. 85). Natural and legal persons have the right to claim compensation for damage they have suffered (Order No. 660, art. 86).

*Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)*

The High Authority for Good Governance is the authority responsible for preventing and suppressing acts of corruption and similar offences (Order No. 660, art. 4). Other specialized authorities mandated to combat corruption are the Public Procurement Regulatory Authority, the Ethics and Good Conduct Observatory, the Anti-Corruption Brigade, the Anti-Racketeering Unit and CENTIF.

CENTIF receives, analyses and processes information relating to suspicious transaction reports. It also receives all other information it may require to fulfil its mission, in particular information communicated by the oversight authorities and judicial police officers.

In addition to these specialized authorities, traditional investigative authorities such as the Directorate of the Economic and Financial Police are involved in the suppression of acts of corruption and similar offences.

Article 89 of Order No. 660 provides for cooperation between public officials and the High Authority for Good Governance, which is the authority in charge of investigation and prosecution.

Cooperation between national authorities and the private sector is covered by article 19 of Order No. 660. Private enterprises are required to establish mechanisms for the prevention of acts of corruption and similar offences, and legislation is in place to encourage the reporting of such acts, such as articles 40, 83, 61 and 62 of Order No. 660.

A hotline has also been established for the general public in order to facilitate the reporting of corruption, and its launch was accompanied by campaigns to raise awareness.

## **2.2. Successes and good practices**

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- The recent legislative changes in Côte d'Ivoire allowing the statute of limitations period to commence at the time of discovery of the offence to ensure that the offence does not go unpunished (art. 29)
- Where an accused person or a suspect dies before the end of the investigation or trial, the possibility for the court to continue civil proceedings in order to ensure the return of assets to bona fide third parties (art. 31)
- The requirement for private-sector entities to establish mechanisms to prevent corruption and similar offences, and encouragement of the reporting of such acts (art. 39).

## **2.3. Challenges in implementation**

In order to further strengthen existing measures to combat corruption, it is recommended that Côte d'Ivoire:

- Establish a national system of crime statistics disaggregated by type of offence, stage of proceedings and outcome (general comment)
- Harmonize the various penalties for corruption offences (arts. 28 to 51 of Order No. 660) in order to ensure that the law is applied consistently and to bridge any gaps (art. 15)
- Continue to monitor the implementation of articles 33 to 35 of Order No. 660 to ensure that the law is applied in a broad and inclusive manner and in relation to the concept of property "unjustifiably" embezzled, misappropriated or diverted by a public official (art. 17)
- Consider the possibility of establishing active trading in influence as an offence (art. 18 (a))
- Continue to extend the scope of the provisions on trading in influence beyond public officials (Order No. 660, art. 31, para. 2) to include any other person, as established in the Convention (art. 18 (b))
- Consider establishing guidelines for judges on ways to take into account the different degrees of illicit enrichment when determining the applicable penalties in order to ensure that the recent Order (Order No. 660) is implemented consistently (art. 20)
- Consider harmonizing its provisions on bribery in the private sector (Order No. 660, arts. 44 and 45) so that the lists of persons referred to in those provisions are not exhaustive and the element of benefit for another person is included (art. 21)



- Consider extending the scope of article 44 of the Order to cover any person who works in a private entity in any capacity and to cover the element of entrusting of a thing of value to a person by virtue of that person's position (art. 21)
- Ensure that the provisions on obstruction of justice under article 39 of Order No. 660 refer to all individuals concerned rather than only to threats and intimidation directed at public officials (art. 25 (a))
- Review the constitutional provisions relating to immunity to ensure that they do not constitute an obstacle to the prosecution and adjudication of offences established by the Convention (art. 30 (2))
- Provide guidelines for judges and prosecutors in order to ensure that article 27 of Order No. 660 is in line with article 30, paragraph 3, of the Convention
- Ensure that appropriate mechanisms and frameworks are established for witness protection in line with article 32 of the Convention
- Ensure that appropriate mechanisms and frameworks are established for the protection of reporting persons in line with article 33 of the Convention
- Strengthen efforts to implement the mandate of the High Authority for Good Governance effectively (art. 36)
- Ensure that appropriate mechanisms and frameworks are established for the protection of persons who cooperate substantially with law enforcement authorities (art. 37, para. 4)
- Consider extending the scope for consideration of previous convictions in States other than WAEMU member States (art. 41)
- Encourage the adoption of the draft law establishing the jurisdiction of Ivorian courts over offences committed against Ivorian citizens abroad (art. 42, para. 2 (a))
- Consider extending the jurisdiction of national courts to offences committed abroad by a stateless person who has his or her habitual residence in its territory (art. 42, para. 2 (b)).

#### **2.4. Technical assistance needs identified to improve implementation of the Convention**

- Good practices and lessons learned (arts. 15, 18, 19, 23, 34 and 36)
- On-site assistance provided by an anti-corruption expert (arts. 15, 23 and 36)
- Development of an action plan for the implementation of the Convention (arts. 19, 23 and 36)
- Legislative drafting/legal advice (art. 27)
- Capacity-building for stakeholders in the fight against corruption.

### **3. Chapter IV: International cooperation**

#### **3.1. Observations on the implementation of the articles under review**

*Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)*

Côte d'Ivoire has ratified the Economic Community of West African States (ECOWAS) Convention on Extradition but would apply, in the first instance, the Act of 10 March 1927 on the extradition of foreigners (the Extradition Act). Côte d'Ivoire does not make extradition conditional on the existence of a treaty and has concluded a

limited number of bilateral extradition agreements. Article 90 of Order No. 660 cross-refers to the 2005 Act with respect to applicable international cooperation measures. However, Côte d'Ivoire has indicated that it could, if necessary, take the Convention as the legal basis for extradition (art. 1 of the Extradition Act) and has notified the Secretary-General of that fact.

Dual criminality is a requirement for extradition (art. 3 of the Extradition Act). Extraditable offences are those punishable by a minimum of two years of imprisonment, although the Extradition Act requires only that the offence be punishable by a minimum of two months' imprisonment where the person sought has already been convicted (art. 4 of the Extradition Act).

Côte d'Ivoire does not extradite its nationals (art. 3 of the Extradition Act). The principle of *aut dedere aut judicare* is applied in Côte d'Ivoire through the submission of cases to the competent authorities in accordance with article 10 of the ECOWAS Convention on Extradition.

The enforcement of sentences imposed by another State is possible on the basis of reciprocity.

Provisional arrest with a view to extradition is possible but requires a written request or any information constituting an equivalent written record (art. 19 of the Extradition Act, art. 22 of the ECOWAS Convention on Extradition and art. 74 of the 2005 Act). Article 72 of the 2005 Act provides for a simplified extradition procedure. The simplified procedure also applies where the requested person has consented to extradition (art. 15 of the Extradition Act).

Extradition requests made for political reasons, in connection with political offences or for any of the reasons set forth in article 5 of the Extradition Act and article 4 of the ECOWAS Convention on Extradition are refused. Extradition for the purpose of prosecution based on discrimination or persecution is refused. Offences involving fiscal matters are extraditable under article 9 of the ECOWAS Convention on Extradition. The guarantees of a fair trial and the presumption of innocence are provided for under article 22 of the Constitution of Côte d'Ivoire.

Although articles 90 and 91 of Order No. 660 provide for international cooperation on extradition and article 19 of the ECOWAS Convention on Extradition provides that the requested State may request additional information, Côte d'Ivoire has not established the obligation to consult with the requesting State or allow that State to present its opinion and to provide additional information before a request for extradition is refused.

The transfer of sentenced persons and the transfer of criminal proceedings are provided for under articles 67 and 47, respectively, of the 2005 Act, but the implementation of those provisions is limited to WAEMU States. Article 2 of the ECOWAS Convention on Extradition provides for the extradition of sentenced persons and article 21 provides for the transfer of criminal proceedings.

#### *Mutual legal assistance (art. 46)*

Côte d'Ivoire has ratified the ECOWAS Convention on Mutual Assistance in Criminal Matters and has also concluded many bilateral agreements on judicial cooperation, including with France, the Afro-Malagasy Common Organization, Switzerland, Mali and Tunisia. At the national level, Order No. 660 and the 2005 Act also contain provisions on international cooperation.

The widest measure mutual legal assistance must be afforded to the other States parties to the Convention (Order No. 660, art. 90). Paragraphs 9 to 29 of article 44 of the Convention are applied directly. The provisions relating to mutual legal assistance

may also be applied with respect to ECOWAS States on the basis of reciprocity. Article 90 refers to the international cooperation provisions of the 2005 Act (chapter 3) as being appropriate procedures for enabling mutual legal assistance. Authorized forms of mutual legal assistance are listed in article 90 and are identical to those provided for in the Convention.

Article 92 of Order No. 660 provides for information-sharing on the basis of a duly justified request through the International Criminal Police Organization (INTERPOL). However, Ivorian legislation does not provide for the possibility of disclosing information to foreign jurisdictions without prior request.

Professional secrecy may not be invoked as a ground for refusing a mutual legal assistance request (2005 Act, art. 55). Requests for mutual legal assistance are subject to the requirement of dual criminality, but that rule may be applied flexibly (2005 Act, art. 55).

A person who is being detained or serving a sentence may be transferred to provide testimony (2005 Act, art. 60). The same provision establishes the obligation to return the person to the custody of the sending State and for the person to remain in custody until his or her sentence has been served. Ivorian law does not, however, require the consent of a detained person to his or her transfer, nor does it establish that the person shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in respect of acts, omissions or convictions prior to his or her departure from the sending State.

Côte d'Ivoire has informed the Secretary-General that the Directorate for Civil and Criminal Cases of the Ministry of Justice has been designated as the central authority and that requests are accepted in French. Mutual legal assistance requests may also be submitted through the Minister for Foreign Affairs of Côte d'Ivoire, who forwards the request to the Minister of Justice. Requests for mutual legal assistance must be issued in writing and contain the information required in such requests (2005 Act, art. 54, paras. (a)-(i)). Article 54 (g) of the 2005 Act states that the requesting State must indicate whether it requires any special procedures to be followed in executing the request. Côte d'Ivoire may request additional information (2005 Act, art. 73).

Côte d'Ivoire does not permit the hearing of witnesses or experts to take place by videoconference when the appearance of the person is not possible or desirable. Article 56 of the 2005 Act requires that information furnished remain confidential, but does not provide for the possibility of disclosing information that is exculpatory to the accused person. The rule of speciality established by the Convention is not reflected in Ivorian law.

Under article 55 of the 2005 Act, the grounds for refusing a mutual legal assistance request are: the absence of dual criminality; if the request has not been issued by a competent authority; if the request has not been properly transmitted or if it appears that it could undermine the sovereignty, security or public order of Côte d'Ivoire or the fundamental principles of its laws; if there are insufficient guarantees that the rights of the accused will be protected; if there are substantial grounds for believing that the request will be used against a person on account of his or her race, religion, nationality, ethnicity, gender or political opinions.

Given that the list of grounds for refusal in article 55 is exhaustive, Côte d'Ivoire has indicated that a request would not be refused on the ground that the offence involved fiscal matters. All decisions to refuse mutual legal assistance requests state the reasons for refusal and are transmitted immediately to the requesting State, but requests for mutual legal assistance do not require the Ivorian authorities to consult with the requesting State before refusing such a request.

Ivorian law (2005 Act, art. 54 (h)) requires requesting States to indicate the period within which the request should be executed. Ivorian law provides for the transmission of procedural documents and/or judicial decisions. For example, a request to transmit a document requiring the appearance of a person may be executed no later than 60 days before the date of the hearing. If such a request cannot be executed, the competent authorities must immediately notify the requesting State of the reason. The existence of an ongoing investigation can also constitute a ground for refusing a request for mutual legal assistance (2005 Act, art. 55). There is no provision specifically dealing with the postponement of execution of a request.

Article 59 of the 2005 Act provides for the immunity of witnesses and prevents the requesting State from using their presence to provide testimony in cases other than those referred to in the mutual legal assistance request.

Côte d'Ivoire has not provided information concerning the sharing of costs of mutual legal assistance requests. Any kind of documentation can be provided upon request (2005 Act, arts. 53, 54, 57, 58 and 61) but there is no provision for the voluntary sharing, or sharing without prior request, of information or documentation.

*Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)*

According to Order No. 660, the High Authority for Good Governance must guarantee to similar foreign authorities the widest measure of cooperation through the signing of agreements on cooperation and exchange of information. They are required to communicate any information and data relating to investigations initiated on the basis of a suspicious transaction report at the national level. Information may be exchanged with the financial information services of States Parties and with the police forces of the various States belonging to INTERPOL. Cooperation measures are listed in article 90 of Order No. 660.

The INTERPOL global communications system I-24/7 has been installed in the offices of CENTIF, the financial intelligence unit of Côte d'Ivoire, since 2012. In addition, the High Authority for Good Governance is responsible for developing cooperation between anti-corruption agencies at the international level and requesting information or useful documentation (Order No. 660, art. 89). Côte d'Ivoire has also entered into bilateral and multilateral agreements and arrangements on direct cooperation with the law enforcement bodies of other States Parties. Ivorian legislation does not specifically identify international cooperation as a means of responding to offences covered by the Convention committed through the use of modern technology.

No information has been provided on the establishment of joint investigative teams between States Parties. Côte d'Ivoire has indicated that special investigative techniques are provided for in article 79 of the Code of Criminal Procedure, which gives the judge the possibility to order "any investigative measure that he or she deems useful in establishing the truth." However, there is no legislative and regulatory framework for their application. Therefore, to date, Côte d'Ivoire has not been in a position to use such special investigative techniques.

### **3.2. Successes and good practices**

Overall, the following successes and good practices in implementing chapter IV of the Convention are highlighted:

- The grounds for refusing requests for mutual legal assistance in relation to guarantees of the protection of the rights of the accused go beyond the Convention by including "substantial grounds for believing that the request will

be used against the person on account of his or her race, religion, nationality, ethnicity, gender or political opinions” (art. 46, para. 11).

### 3.3. Challenges in implementation

In order to further strengthen existing measures to combat corruption, it is recommended that Côte d’Ivoire:

- Conduct a comprehensive review of the current Extradition Act of 1927 in order to ensure that:
  - The requirement that a corruption offence be punishable by two years of imprisonment in order for that offence to be extraditable does not hamper the ability of Côte d’Ivoire to carry out extradition in relation to offences established by the Convention (art. 44, para. 8)
  - Sentences imposed in other States are enforceable in Côte d’Ivoire if the person is not extradited on the ground that he or she is one of its nationals (art. 44, para. 13)
  - Fiscal offences, although extraditable under the ECOWAS Convention on Extradition, are also extraditable beyond the ECOWAS region (art. 44, para. 16)
- Establish the obligation to consult with requesting States or allow them to present their opinions and provide additional information before requests for extradition are refused (art. 44, para. 17)
- Extend the scope of its provisions relating to the transfer of sentenced persons and the transfer of criminal proceedings to include all States Parties to the Convention (arts. 45 and 47)
- Consider allowing the transmission to competent authorities of other States Parties, without prior request, of information that may be useful to and assist them (art. 46, para. 4)
- Ensure that the consent of the person who is being detained or is serving a sentence is obtained prior to his or her transfer to provide assistance in the territory of another State Party (art. 46, para. 10 (a))
- Establish that a person transferred for the purpose of providing assistance to another State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in respect of acts, omissions or criminal charges prior to his or her departure from the sending State (art. 46, para. 11)
- Revise current legislation to comply with the principle of speciality with respect to information received by Côte d’Ivoire, and consider ensuring that any information that is exculpatory to the accused person is disclosed in accordance with the Convention (art. 46, para. 19)
- Request the Ivorian authorities to consult with the requesting State before refusing a request for mutual legal assistance (art. 46, para. 26)
- Consider regulating the sharing of costs relating to mutual legal assistance requests in order to avoid any confusion or obligation to bear any unreasonable cost (art. 46, para. 28)
- Consider using international cooperation as a means of responding to offences covered by the Convention committed through the use of modern technology (art. 48, para. 3)

- Ensure the adoption of an appropriate legislative and regulatory framework to allow the use of special investigative techniques provided for in the Code of Criminal Procedure and thus broaden its scope for participating in international cooperation efforts (arts. 49 and 50).

**3.4. Technical assistance needs identified to improve implementation of the Convention**

- Technical assistance to respond to the challenges identified during the review process.
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